GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision Petition filed by sri Nakka Venkata Rao, S/o. Satyam, R/o. Cherukumpalem village of Rajavommangi (Mandal), East Godavari District presently in ASR District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Siitharamaraju District in CMA No.22/2005, dated: 23.07.2005 in respect of land an extent of Acs.3.00 cts in Sy.No.19/4 situated at Velagalapalem (V), Rajavommangi (M), Alluri Siitharamaraju District erstwhile East Godavari District - Dismissed-Orders-Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.62 **Dated:30.10.2023**

Read the following:

1. Revision Petition filed by Sri Nakka Venkata Rao, S/o. Satyam, R/o. Cherukumpalem village of Rajavommangi (M) Alluri Siitharamaraju District erstwhile East Godavari District before the Hon'ble Dy.CM(TW), dated: 21.02.2006.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No. 22/2005, dated 23.07.2005.

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In the reference 1st read above, Sri Nakka Venkata Rao, S/o. Satyam R/o. Cherukumpalem village of Rajavommangi (M), Alluri Siitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Siitharamaraju District in CMA No.22/2005, dated 23.07.2005 in respect of land an extent of Acs.3.00 cts in Sy.No.19/4 situated at Velagalapalem (V), Rajavommangi (M), Alluri Siitharamaraju District erstwhile East Godavari District.

2. **Brief history of the subject case:**

a) The Special Deputy Tahasildar(TW), Rajavommangi (M), Alluri Sitharamaraju District has fIled a Complaint under section 3(1) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondents (i.e. Sri Nakka Venkata Rao).

b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry petitioner's grandfather cleared the jungle in petition Scheduled land and brought it to cultivation and his

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four families are residing on it. Tribals never cultivated it and requested to dismiss the case and the adangal conforms Sri Nakka Venkata Rao is confirmed by tax receipts from 29-12-1992. The possession of respondent on Petition Scheduled land as encroachment in this case is in violation of 3(1)(a) of Regulation 1 of 70 and also executive directions of Government and liable for ejection.

c) Hence, the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under section 3(2) (a) of APSALTR 1/59 as amended by 1/70 has ordered for ejection of non tribal respondents and for restoration of the Petition Scheduled land to Government for onward assignment to eligible tribals. The Mandal Revenue Officer, Rajavommangi is directed to implement the orders and report compliance vide ADO LTRP No.251/2004, dated.29.12.2004.

d) Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri Nakka Venkata Rao, S/o. Satyam, R/o. Cherukumpalem village of Rajavommangi (M), Alluri Sitharamaraju District has filed an appeal against the orders LTRP No. 251/2004, dated. 29.12.2004 before the Additional Agent to Government cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has allowed the appeal filed by the Sri Nakka Venkata Rao, S/o. Satyam R/o. Cherukumpalem village of Rajavommangi (M), Alluri Sitharamaraju District with regard to the scheduled property covered by measuring Acs.3.00 cts in Sy.No.19/4 situated at Velagalapalem (V), Rajavommangi (M), Alluri Siitharamaraju District erstwhile East Godavari District in CMA No.22/2005, dated: 23.07.2005, dismiss the appeal and uphold the orders passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No. 251/2004, dated.29.12.2004.

3. Aggrieved by the above orders, Sri Nakka Venkata Rao, S/o. Satyam R/o. Cherukumpalem village of Rajavommangi (M), Alluri Sitharamaraju District has filed a Revision petition dated:21.02.2006, before the Government of A.P., against the orders of the Additional Agent to the Govt. cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.22/2005, dated: 23.07.2005 in respect of land an extent of Acs.3.00 cts in Sy.No.19/4 situated at Velagalapalem (V), Rajavommangi (M), Alluri Sitharamaraju District erstwhile East Godavari District with a request to set aside the orders of LTRP and CMA and direct the respondents to drop all further proceedings against the petitioners in this regard and to pass such other or further order as this Hon'ble Government may deem fit and proper in the circumstances of the case.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 08.01.2013 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.22/2005, dated.23.07.2005 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 26.08.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This Revision Petition is filed by Sri Nakka Venkata Rao, S/o.Satyam, R/o. Cherukumpalem village of Rajavommangi (M), East Godavari District, presently in ASR District against the orders of the Additional Agent to Government, Rampachodavaram, with regard to lands admeasuring Acs.3.00 cts in Sy.No.19/4 of Velagalapalem (V), Rajavommangi (M), Alluri Sitharamaraju district erstwhile East Godavari District passed in CMA No.22/2005, dated: 23.07.2005 dismissing the appeal, while upholding the orders of the Special Deputy Collector(TW) passed in LTRP No.251 of 2004, dated.29.12.2004 and ordering to restore the Petition Schedule land in favour of the State for onward assignment to eligible tribals as per rules in force.

(II) The matter came for hearing finally before the Revision Authority on 26-08-2023. Counsel for the Revision Petitioner and the Special Deputy Collector were also present. Heard both sides. The counsel for the Revision Petitioner stated no objection to post the matter for orders. The following order is made after perusal of the material documents available on the record.

(III) The Revision Petitioner filed a Writ Petition No.23173 of 2006 against the impugned letter dated 23.09.2006 issued by the Government informing that the Revision Petition is rejected, as it is filed after lapse of five months. The Hon'ble High Court set aside the said impugned letter and the matter was remitted to the Government with a direction to pass appropriate orders in the revision petition filed by the petitioner on 21.02.2006 on merits. Hence the Revision Petition is taken up for

determination of rights of the parties under the Land Transfer Regulations.

(IV) The contention of the Revision petitioner is that the first respondent/Additional Agent to Government gravely erred in confirming the order of the Special Deputy Collector (TW), Rampachodavaram who passed in LTRP No. 251 of 2004 and there was no prohibited transfer involved in the case and the father of the Revision Petitioner got the land prior to the commencement of the Land Transfer Regulations 1/70 and the said land came in to his possession through succession and the first respondent passed the impugned order without looking in merits of the case as such it is liable to the set aside.

(V) The Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District fled parawise remarks, denying the contention of the Revision Petitioner (RP). The Additional Agent to Government, Rampachodavaram stated that the lands in question are Government lands and the encroachment of such lands by the Revision Petitioner is not valid under Land Transfer Regulations in Scheduled Area and the Revision Petitioner failed to produce any valid title deed over the land and requested to dismiss the Revision Petition.

(VI) The background of cases and rival submissions give rise to following points for consideration.

"Whether the non tribal is entitled to hold the Government land situated in the Scheduled Area and whether such occupation is hit by the provisions of the AP Scheduled Area Land Transfer Regulations of 1 of 59 as amended by 1 of 70"?

(VII) The Clause (b) of Section 3(1) which was substituted by Regulation I of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area in favour of non tribals is prohibited under the Land Transfer Regulations 1 of 70.

(VIII) The Revision Petitioner failed to adduce any evidence to show that the lands in question are Ryotwari lands and has a valid title over the land to make a claim in his favour. The records available show that the lands in question are Government lands and the Revision Petitioner is in occupation of such lands as an encroacher. Moreover there is no evidence to show that the nontribal claimant has been in continuous possession

and enjoyment of the schedule lands and his possession is not in violation of Land Transfer Regulations 1 of 70.

(IX) As per the ruling of the Hon'ble High Court of AP (2007(6) ALD 292,) the land classified as Gayalu or Government land, the non-tribal person who is in possession of such land must be said to be "dealing" with such immovable property, which falls within the scope of "transfer" as defined under Section 2(g) of the Land Transfer Regulation 1 of 59 as amended by 1 of 70. Therefore the possession of the Government lands in question by the Revision Petitioners is in clear violation of the Land Transfer Regulations.

(X) The Hon'ble High Court of Andhra Pradesh further held that, "No non-tribal can seek assignment or entitlement over the Government lands and its related orders issued by the Government of Andhra Pradesh from time to time permitting the non-tribal land less poor to continue in occupation of the Government land in Schedule Areas were struck down by the Hon'ble High Court of Andhra Pradesh in P. Gangamma Vs Vasudha Misra and another case. (1998(2) ALD 35).

(XI) The Hon'ble Supreme Court of India Samata Vs Government of Andhra Pradesh (AIR SC-1997) held that, "the word "person" in section 3(1) would include both natural person as well as Juristic person and Constitutional Government and as such the transfer of land by juristic person or allotment of land by state to Non-Tribal stands prohibited". Therefore the State is prohibited to allow the non tribal to continue in the occupation of the Government lands.

(XII) The full bench decision of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that " the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(XIII) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition fIled by the Petitioner is here by dismissed. Therefore the impugned order dated: 23.07.2005 passed by the Additional Agent to Government in CMA No 22/2005 is hereby upheld. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders

passed by the Appellate Authority Project Ofcer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 22/2005, dated: 23-07-2005 are hereby upheld and the Revision petition filed by Sri Nakka Venkata Rao, S/o.Satyam, R/o. Cherukumpalem village of Rajavommangi (M), Alluri Siitharamaraju District, against with regard to land an extent of 3.00 cts in Sy.No.19/4 situated at Velagalapalem (V), Rajavommangi (M), Alluri Siitharamaraju District erstwhile East Godavari District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter. Accordingly, acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.
(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Rajavommangi Mandal, Alluri Sitharamaraju District.
Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Sri Nakka Venkata Rao, S/o.Satyam,
R/o. Cherukumpalem village of Rajavommangi Mandal,
Alluri Siitharamaraju District,
Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette), Vijayawada.
SF/SC.

// FORWARDED : : BY ORDER //

SECTION OFFICER